



**U.S. Department of Justice**

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June 15, 2020

**BY ECF**

The Honorable Katharine S. Hayden  
United States District Court Judge  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07102

**Re: *Merit Medical Systems, Inc. v. William P. Barr, et al.*, Civil  
Action No. 2:20-cv-6468 (KSH)(CLW)**

Dear Judge Hayden:

We are the Assistant U.S. Attorneys assigned to represent Defendants in the above-referenced matter. We write respectfully to request a thirty-day extension of time to file our response to Plaintiff's motion for a preliminary injunction, from June 22, 2020, until July 22, 2020. Counsel for Plaintiff consents to this requested extension.

Plaintiff Merit Medical Systems, Inc. ("Merit") filed a complaint on May 28, 2020, alleging that the practice of administratively terminating *qui tam* cases in the District of New Jersey violates its First Amendment and common law rights of access to judicial records. On June 2, 2020, Merit moved for a preliminary injunction prohibiting the administrative closure of *qui tam* cases. ECF Nos. 4, 5. The proposed order accompanying Merit's preliminary injunction application indicates that Merit seeks an interim order imposing the following constraints: "(1) government attorneys shall refrain filing motions requesting administrative closure and indefinite sealing of *qui tam* cases, with no judicial review; and (2) the United States District Court for the District of New Jersey shall refrain from administratively closing and sealing *qui tam* cases indefinitely, with no judicial review." ECF 4-4, p. 2. According to a docket entry automatically generated by the Clerk's Office, the motion for preliminary injunction is returnable on July 6, 2020, which would make Defendants' response due on June 22, 2020. The Government reserves all rights to contest proper service.

Merit's instant case is related to another matter pending in this Court before Judge Cecchi. On June 12, 2020, the United States intervened in that matter, a *qui tam* action against Merit at *U.S. ex rel. Wolf v. Merit Medical Systems, Inc.*, Civil Action No. 16-1855 (CCC)(MF).

Merit's complaint and motion for preliminary injunction raise complex procedural and substantive issues, and the Government seeks an additional thirty days, from June 22 until July 22, 2020, to respond fully to the issues raised therein. The extension is necessary for the Government to fully address the relevant issues and to coordinate with the interested parties, which include the U.S. Attorney's Office, different parts of the Civil Division within the Department of Justice, and the U.S. District Court for the District of New Jersey, which is named as a defendant along with the Attorney General and the Department of Justice.

For these reasons, Defendants respectfully request that the Court extend the time for Defendants to respond to Merit's motion for preliminary injunction from June 22, 2020 until July 22, 2020. We have enclosed a proposed order reflecting this request. If Your Honor would like a conference call with the parties to discuss this request, we would be pleased to arrange such a call.

Thank you very much for your consideration of this matter.

Respectfully submitted,

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By: s/ Jessica O'Neill  
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cc: Plaintiff's counsel (via ECF)